

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASETEK DANMARK A/S,

Plaintiff,

v.

COOLIT SYSTEMS INC,

Defendant.

Case No. [19-cv-00410-EMC](#)

**ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
MOTION FOR RECONSIDERATION
OF CLAIM CONSTRUCTION ORDER**

Docket No. 152

Plaintiff Asetek Danmark A/S (“Asetek”) moves for leave to file a motion for reconsideration of this Court’s claim construction order of July 22, 2020, pursuant to Civil Local Rule 7-9. *See* Docket No. 152 (“Mot.”). Asetek has offered no cognizable basis for relief. Having considered the papers filed and accompanying submissions, as well as all other evidence of record, the Court hereby **DENIES** the motion for the reasons set forth below.

I. BACKGROUND

The relevant facts are more fully set forth in this Court’s prior order. *See* Docket No. 149 (“Order”). In relevant part, Asetek filed this action against Defendant CoolIT Systems, Inc. (“CoolIT”), accusing CoolIT of infringing several of Asetek’s patents (U.S. Patent Nos. 8,240,362 (the “362 Patent”); 8,245,764 (the “764 Patent”); 9,733,681 (the “681 Patent”); 10,078,354 (the “354 Patent”); and 10,078,355 (the “355 Patent”)). CoolIT counterclaimed, accusing Asetek of infringing several CoolIT patents (U.S. Patent Nos. 8,746,330 (the “330 patent”), 9,603,284 (the “284 patent”), 9,057,567 (the “567 patent”), and 10,274,266 (the “266 patent”)). On July 10, 2020, the parties appeared before the Court for a claim construction hearing. Docket No. 142. Thereafter the Court issued an order construing sixteen terms, which appear in various claims of the patents-in-suit. Order at 44–45.

II. DISCUSSION

Asetek does not meet its burden to seek reconsideration of the Court's claim construction order under Local Rule 7-9. According to Asetek, CoolIT “misrepresented the specification of its ’330 patent by presenting an altered version of the ’330 patent’s FIG. 3, but without labeling or clearly identifying the altered figure as altered.” Mot. at 1. Asetek raised this allegation during the claim construction hearing. Markman Tr. at 95:12–97:8. In fact, at the hearing, the Court expressly stated that it understood the figure was “modified.” *Id.* at 97:9-25. There is therefore no basis for Asetek’s argument that “CoolIT falsely led the Court to believe” that the ’330 patent discloses an “alternative embodiment” of FIG. 3. Mot. at 1. Because it only rehashes Asetek's prior argument, the motion for reconsideration contravenes subsection (c) of Local Rule 7-9, which specifically prohibits such motion from “repeat[ing] any oral or written argument made by the applying party in support of or in opposition to the interlocutory order which the party now seeks to have reconsidered.” Civ. L.R. 7-9(c).

Moreover, none of the three reasons for reconsideration outlined in Local Rule 7-9 apply here: (1) no material difference in fact or law existed from that which was presented to the Court before it issued the claim construction order; (2) no new material facts or a change in controlling law occurred after the Court issued its claim construction order; and (3) the Court did not fail to consider material facts or a dispositive legal argument. *Id.* 7-9(b)(1)–(3).

III. CONCLUSION

Based on the foregoing, the Court **DENIES** Asetek’s motion for leave to file a motion for reconsideration of the Court’s claim construction order.

This order disposes of Docket No. 152.

IT IS SO ORDERED.

Dated: September 29, 2020



EDWARD M. CHEN
United States District Judge